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SUBJECT: WHAT IS CANADIAN? GOC REVIEWS ITS DEFINITION OF  
"CANADIAN CONTENT" IN FILM AND TV PRODUCTION

REF: 02 OTTAWA 922

**1. SUMMARY/INTRODUCTION:** Canada applies various tests to define "Canadian content" of entertainment products, in order to make funding decisions and to enforce broadcast content requirements. On June 17, the GOC announced results of a year-long review (reftel) of the definition of "Canadian content" as it applies to film and television production. While the resulting recommendations suggest numerous changes, they broadly support the GOC's overall approach to cultural policy. They stress that "Canadian content can be created only by Canadians." They also propose that the current "points/expenditure system" - under which Canadian content is determined by a formula based partly on the nationality of key creative personnel - be replaced by a co-called "creative expenditure model." END SUMMARY/INTRODUCTION

**2. THE CURRENT REGIME:** As a condition of license, Canadian radio and television broadcasters are required to fill certain percentages of their broadcast schedules with "Canadian" programming. Key public sector film and TV funding bodies, Telefilm Canada and the Canadian Film and Television Production Fund (CFTPF), are mandated to support distinctively "Canadian" productions. The GOC's Canadian Film or Video Production Tax Credit (CPTC) is also designed to support production of "Canadian" content.

**3. THE RULES:** Telefilm Canada and the Canadian Audio-Visual Certification Office (CAVCO) apply specific rules to determine whether a given production is Canadian for purposes of GOC funding and tax credits. These rules are based on the nationality of key creative personnel (director, screenwriter, key actors, etc.) and on a minimum (75 percent) of production costs being paid to Canadian entities. The Canadian Radio-Television and Telecommunications Commission (CRTC), the broadcast regulator, applies similar rules to determine whether a production is Canadian for purposes of meeting TV broadcasting quotas.

**4. THE PROBLEM:** Critics have pointed out for years that these rules do not truly govern content; they implicitly assume that what Canadian personnel produce will be "Canadian content." As one columnist recently wrote, "the requisite number of Canadians may be employed, but the film itself may be about American tourists eating Japanese food in Bangladesh. . . . And why should it be preferred to a film made by Americans of a Canadian story, as in 'The Shipping News' [a film set in Newfoundland starring U.S. actors]?" With Canada now the site of a large amount of U.S.-financed and/or internationally co-produced film and television, the rules have become somewhat harder to apply. Moreover, such questions about what is (or should be) considered Canadian are not only more culturally problematic, but also of growing economic/commercial importance.

**5. POLICY CONTEXT:** Post predicted a year ago (reftel) that the GOC review, while potentially useful, would likely not tackle important larger issues about the relevance of Canadian cultural policy measures. In many cases, Canada's media/entertainment industries today are vastly more prosperous, successful and dynamic than they were when these policies were first formulated. As expected, the results of the GOC "Canadian content" review are framed within the broader status quo of Canadian cultural policy and are meant to reinforce it. In fairness, it bears noting that some wider issues in cultural policy have been addressed recently by Parliamentary committees - such as the House Industry Committee's recent study of foreign ownership restrictions in telecommunications, and the House Heritage Committee's examination of the state of Canadian broadcasting (see website [parl.gc.ca](#) under "committee business"). However, we see little prospect of these studies leading to actual changes in policy.

**6. RECOMMENDATIONS:** The results of the "Canadian content" review are available at website [canadianheritage.gc.ca](#) under

"what's new." Following are key features.

-- The review reinforces a basic tenet of Canadian cultural policy: "Canadian content can be created only by Canadians. . . . Foreigners cannot relate an event or tell a story from a Canadian point of view . . . . The mere fact of being very largely created by Canadians is what gives an audiovisual work its unique Canadian identity." (This effectively dismisses the criticism cited in para. 4 above).  
-- The review recommends replacing the various current systems for assessing Canadian content, including the current points/expenditure system described in para. 3, with a single "creative expenditure model" which would be applied nationwide. This would focus on all the "creative costs" of a production, classed into four groups: authors, creative collaborators, performers, and technicians. To qualify as Canadian, a production would need to meet minimum expenditure requirements in each group. These minimum expenditure requirements would be subject to a system of options. Producers could exercise an option to use non-Canadian elements, and pay for this flexibility by incurring higher minimum expenditure requirements. For details, see section 3.2 of the report at website [canadianheritage.ca](http://canadianheritage.ca) under "what's new".  
-- It recommends that the distribution of Canadian feature films in Canada continue to be reserved for Canadian-owned and -controlled companies (a long-standing protective measure).

-- It recommends that the broadcast regulator consider exempting commercials that promote Canadian feature films from the twelve-minute-per-hour TV advertising limit. This could reduce the perceived disadvantage faced by Canadian films in advertising and promotion vis--vis bigger-budget U.S. productions.

17. COMMENT: Canada's cultural-policy-making establishment is making few concessions in the face of the profound economic, demographic and technological changes which have transformed North America's media landscape in recent decades. At least under the leadership of outgoing Prime Minister Jean Chretien, all indications are that any policy changes will be designed to reinforce and improve the existing complex of protections and incentives, rather than re-evaluate its relevance. However, it is clear that the challenges to the status quo - both technical (the Internet, satellite signal theft, etc.) and political (Chretien is scheduled to retire sometime in the coming eight months) - will not go away.

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